COURT NO. 2

HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 64 of 2002
(Old NO. 909 of 1992)

State of U.P. … **Appellant.**

Versus

Prithvi Nath & others …. **Respondents.**

Learned Standing Counsel for the appellant.

Hon. P.C. Verma, J.

Hon. B.S. Verma, J.

Heard learned Standing Counsel for the State. Grounds to condone delay are sufficient. Delay is condoned. Admit the appeal.

This appeal aeries out of the judgment and order dated 30-05-1992, passed by the then III Additional District Judge, Saharanpur (***in short the Judge)*** in Land Acquisition Case No. 99 of 1988, Seth Prithvi Nath and others Vs. Collector Saharanpur, whereby the learned Judge has allowed the reference and has awarded compensation @ Rs. 300/- per Sqft. In respect of land acquired along with solatium @ 30% and the interest @ 9% for the first one year and thereafter @ 15% as mentioned in the impugned order.

Brief facts of the case are that the State of U.P. acquired the disputed land measuring 884 Sq.ft. under the Scheme of extension of ***Har Ki Pauri*** (Hardwar). Necessary notification under Section 4(1) of the Land Acquisition 6 of the Act were issued. Objections under Section 9 of theAct were invited. The claimant compensation @ Rs. 500/- per sq.ft. on different pleas. The Special Land Acquisition Officer Saharanpur has awarded compensation on the basis of market value of the land as per provision of Section 23 of the Act. On the objections filed by the

Respondent before the Special Land Acquisition Officer, the reference was made to the learned Judge. Before the Reference Court, the State Government field its objections supporting the award made by the Special Land Acquisition Officer. The learned reference court framed two Issues in the proceedings for determination of the amount of compensation. On Issue No.1, the learned Judge has observed as under:-

> ***"It is an admitted fact that in 1974 the Claimant was given compensation @ Rs. 80/- p.sq.ft. and in 1986 @ 390/- p.sq.ft. in respect of the part of the same building. This present acquisition relates to 31.3.84 which is about two years earlier from the last acquisition of 1986. Now it has to be seen that looking to the two rates of compensation, i.e. Rs. 80/- p.sq.ft. of 1974 and Rs. 390/- p.sq.ft. of 1986 what should be the rate of compensation for the present acquisition. Looking to all the facts and circumstances and the previous judgments passed in L.A.cases in respect of the same part of the building, it appears justified that the claimant should be given compensation @ Rs.300/- p.sq.ft. for the land acquired as the possession in this case was taken on 23.9.86."***

Accordingly, the learned reference court has allowed the reference, and has awarded the compensation, as mentioned earlier.

We have heard the submissions of the learned Standing Counsels appearing on behalf of the State-appellant and have carefully gone through the entire material on record.

It has been submitted on behalf of the appellant that in the present case the Special Land Acquisition Officer was justified in determining the compensation on the basis of exemplar sale-deed dated 3-10-1981, therefore, the Reference Court has erred in not accepting the exemplar aforesaid for determination of compensation. It has been argued that the compensation awarded under the impugned order is without any basis. We have considered the

Submissions of the learned Standing Counsel from all the four corners of the case. We have already reproduced the observations made by the learned Reference Court for determining the compensation in the present case. From a perusal of the entire material on record, we find that the Reference Court has already considered all relevant factors in determining the fair amount of compensation of land acquired after considering the market value of the land according to the provisions of Section 23 of the Land Acquisition Act. The learned Standing Counsel could not point out any illegality or material irregularity having been committed by the learned Reference Court. Considering the vicinity of the site, where all amenities view that the rate of Rs. 300/- per sq.ft. for the land acquired in the present case was a just and fair compensation awarded by the Reference Court vide judgment and order dated 30-05-1992. The impugned order does not suffer from any infirmity, therefore, the appeal has no force.

No other point was urged or argued before us in this appeal.

In the result, the appeal preferred by the State lacks merit and is dismissed. The judgment and order, under appeal, is upheld. No order as to casts.

27-09-2004 **(B.S. Verma, J.)** **(P.C. Verma, J.)**
RCP